

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CARL L. ENGEL and KING TIDE LLC
d/b/a KING TIDE PRESS,

Plaintiffs,

v.

FITZCARRALDO EDITIONS,

Defendant.

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CASE NO.: 23-cv-4443

CIVIL ACTION

COMPLAINT

I, Carl L. Engel, together with King Tide LLC d/b/a King Tide Press (“King Tide Press”) (collectively, “Plaintiffs”), hereby bring our complaint against Defendant, Fitzcarraldo Editions (“Fitzcarraldo”), seeking a declaration of non-infringement under the United States Copyright Act, 17 U.S.C.A. § 501 *et seq.*, as well as damages for Fitzcarraldo’s violation of the Digital Millennium Copyright Act § 512(f), its defamatory statements to third parties, and its tortious interference with King Tide Press’s contractual relationship with its primary distributor. For our Complaint, we aver as follows:

INTRODUCTION

1. I enjoy translating literature as a hobby.
2. I publish my finished work through King Tide Press.
3. On February 11, 2023, I was awarded a Certificate of Registration for a new translation I had just finished, called *Macunaíma: The Hero Without Any Character* (the “Engel Translation”).

4. The Engel Translation is a translation of the Brazilian novel *Macunaíma: O Herói Sem Nenhum Caráter* (“*Macunaíma*”) by Mário de Andrade, whose work entered the public domain in 2016.

5. On March 14, 2023, I made the Engel Translation available for sale on Amazon.com.

6. On May 17, 2023, Fitzcarraldo published a different translation of *Macunaíma* by Katrina Dodson, called *Macunaíma: The Hero with No Character* (the “Dodson Translation”).

7. There is no registered copyright for the Dodson Translation.

8. On November 2, 2023, I received a takedown notice from Amazon.com, advising me that the Engel Translation has been suspended for sale on Amazon.co.uk because Fitzcarraldo had claimed that it infringed on the Dodson Translation.

9. Fitzcarraldo made this claim to Amazon, even though I have a registered copyright for the Engel Translation, and there is no registered copyright for the Dodson Translation.

10. Not only that, but Fitzcarraldo has not offered an explanation as to how I am supposed to have infringed on the Dodson Translation, when the Engel Translation was published first.

11. Nor has Fitzcarraldo identified any striking similarities between the Engel Translation and the Dodson Translation that would indicate copying.

12. Even after I provided Fitzcarraldo with my Certificate of Registration for the Engel Translation, it refuses to withdraw its claim with Amazon, and the book remains suspended from Amazon.co.uk.

13. Plaintiffs, therefore, require the Court's intervention to declare that the Engel Translation does not infringe on the Dodson Translation, and to award us damages for the revenues lost during the book's wrongful suspension.

PARTIES

14. I, Plaintiff Carl L. Engel, am an adult individual with a primary residence in Philadelphia, Pennsylvania.

15. Plaintiff King Tide LLC is a limited liability company formed and existing under the laws of the Commonwealth of Pennsylvania, with a primary business address in Philadelphia, Pennsylvania. "King Tide Press" is a registered trade name of King Tide LLC. (King Tide LLC is identified herein as "King Tide Press").

16. I am the sole member of King Tide Press.

17. As a hobby, I enjoy translating literature.

18. I established King Tide Press for the purpose of publishing my translations.

19. Defendant, Fitzcarraldo Editions, is, upon information and belief, a private limited company formed and existing under the laws of the United Kingdom of Great Britain and Northern Ireland. Fitzcarraldo's primary business location is A.103 Fuel Tank, 8-12 Creekside, London SE8 3DX, United Kingdom.

20. Fitzcarraldo describes itself as "an independent publisher specializing in contemporary fiction and long-form essays." *See* fitzcarraldoeditions.com/about.

JURISDICTION & VENUE

21. The Court has jurisdiction over the subject matter of this lawsuit under 28 U.S.C.A. § 1331 because Plaintiffs' causes of action arise under the laws of the United States of America. Specifically, Plaintiffs seek a declaration of non-infringement under the U.S. Copyright Act, 17

U.S.C.A. § 501 *et seq.*, as well as damages for Fitzcarraldo’s misrepresentations under the Digital Millennium Copyright Act, 17 U.S.C. § 512(f). The Court has supplemental jurisdiction over Plaintiffs’ state law claims under 28 U.S.C.A. § 1367(b), because they form part of the same case over which it has original jurisdiction.

22. The Court has jurisdiction over Fitzcarraldo under Federal Rule of Civil Procedure 4(k)(2), because (i) Plaintiffs’ cause of action arises under federal law, (ii) Fitzcarraldo has sufficient contacts with the United States as a whole to justify the imposition of U.S. law, and (iii) Fitzcarraldo is without sufficient contacts to satisfy the due process concerns of the long-arm statute of any particular state. Fitzcarraldo sells its books to customers in the United States purposely, continuously, and systemically, such that it is essentially at home in the country. Moreover, Fitzcarraldo uses distributors in the United States, such as Amazon.com, to reach its customers in the country.

23. Venue is proper in the Eastern District of Pennsylvania under 28 U.S.C.A. § 1391(b), because (i) a substantial part of the events or omissions giving rise to the claim occurred here, or (ii) there is no other district in which an action may be brought as provided in § 1391(b).

FACTUAL BACKGROUND

A. I Make A Translation Of *Macunaíma: The Hero Without Any Character* By Mário De Andrade, And Publish It Through King Tide Press.

24. *Macunaíma: O Herói Sem Nenhum Caráter* (“*Macunaíma*”) was written by Brazilian author Mário de Andrade and was first published in 1928.

25. *Macunaíma* is considered one of the foundational texts of Brazil’s “modernist” arts movement and is regarded as one of the canonical works of Brazilian literature.

26. Mr. de Andrade died in 1945, so *Macunaíma* entered the public domain on January 1, 2016.

27. On June 8, 2020, I began work on my translation of *Macunaíma*.

28. In February 2023, I finished my translation, titled *Macunaíma: The Hero Without Any Character*, i.e., the Engel Translation, and applied with the U.S. Copyright Office for a Certificate of Registration.

29. On March 14, 2023, King Tide Press published the Engel Translation, and made it available for sale internationally through Amazon.com and its affiliates.

30. On July 11, 2023, the U.S. Copyright Office issued me a Certificate of Registration for the Engel Translation, with an effective date of February 11, 2023. A true and correct copy of my Certificate of Registration is attached as **Exhibit A**.

B. Fitzcarraldo Publishes A Competing Translation Of *Macunaíma* For Which There Is No Registered Copyright.

31. On May 17, 2023, Fitzcarraldo published a version of *Macunaíma* translated by Katrina Dodson, titled *Macunaíma: The Hero with No Character*, i.e., the Dodson Translation.

32. There does not appear to be a copyright for the Dodson Translation registered with the U.S. Copyright Office. See the Public Catalog entries for all works with “Macunaima” in the title (the “Catalog Entries”), a copy of which is attached as **Exhibit B**.

33. The Catalog Entries show only three registered translations of *Macunaíma*: A translation by E.A. Goodland in 1985 (the “Goodland Translation”), a translation by Larry Wayne Gordon in 1991, and the Engel Translation in 2023. Compare Ex. A, the Certificate of Registration (Registration No. TXu 2-378-009), with Ex. B, the Catalog Entries.

34. Because Ms. Dodson is an American, and the Dodson Translation was first published in the United States by New Directions Publishing on April 4, 2023, the absence of the Dodson Translation in the Catalog Entries indicates that there is no registered copyright for the work.

C. The Dodson Translation Bears Striking Similarities To The Goodland Translation.

35. The Goodland Translation was published by Random House, Inc., in 1984.

36. In an interview with The New York Times Book Review, Ms. Dodson acknowledged having read the Goodland Translation in connection with making the Dodson Translation. *See New Translations Explore Brazil's 'Endless and Unfinished' Character* (the “Dodson Review”), The New York Times, April 7, 2023, a copy of which is attached as **Exhibit C**.

37. In the Dodson Review, the reporter writes that “Dodson approached the book because she felt the existing English Translation, E.A. Goodland’s 1984 version for Random House, had smoothed over the ‘joy and poetry of the language, and the cultural politics of the particular mix of languages.’” *See* Ex. C, the Dodson Review, at 2.

38. Ms. Dodson even criticized the Goodland Translation, saying that “he completely missed the spirit of what the book is trying to do. His translation really leans into stereotypes of Brazil being this sexy, wild place where everyone loses their head.” *See id.*

39. Ms. Dodson’s familiarity with the Goodland Translation is apparent in the Dodson Translation, as there are striking similarities between the two works.

40. Perhaps most glaring is Ms. Dodson’s use throughout the novel of the same nickname as Mr. Goodland for the main character’s love interest. In the original *Macunaima*, Mr. de Andrade called this character “Marvada.” In Portuguese, the word “marvada” literally refers to a sweet and intoxicating liquor made from fermented sugar cane. Both Ms. Dodson and Mr. Goodland call this character “She-devil.”

41. Striking similarities with the Goodland Translation persist throughout the Dodson Translation.

42. These striking similarities include the following:

Original Portuguese: As mulheres se riam muito simpatizadas , falando que “ espinho que pinica, de pequeno já traz ponta.”		
Goodland Translation	Dodson Translation	Engel Translation
The women laughed knowingly , saying, “The little one’s prickly prickle already has a point!” <i>See</i> p. 4.	They’d laugh knowingly , remarking, “Though you may be expectin’ a little tickle, even a pipsqueak thorn packs a prickle .” <i>See</i> p. 4.	They laughed in approval , saying, “The boy’s thorns are already sharp.” <i>See</i> p. 2.
Note: (i) Mr. Goodland and Ms. Dodson translate “simpatizadas” as “knowingly,” even though “simpatizar” means “to sympathize” or “to support”; (ii) they both use the word “prickle” for “espinho”; and (iii) they both use the quote to make a vaguely sexual double-entendre.		
Original Portuguese: “Não vê que chamo Naipi e sou filha do tuxaua Mexô- Mexoitiqui nome que na minha fala quer dizer Engatinha-Engatinha .”		
Goodland Translation	Dodson Translation	Engel Translation
“You should know,” she said, “that I am Naipi, daughter of the chief Mexô-Mexoitiqui, whose name means, in my language, Pussyfoot .” <i>See</i> p. 23.	“Can’t you see that my name is Naipi and I am the daughter of the tuxua named Mexô- Mexoitiqui which in my language means Big-Cat-Crouching .” <i>See</i> p. 24.	“Can’t you see that I’m Naipi, Chief Mexô-Mexoitiqui’s daughter? My name means ‘ Little Flirt ’ in my language.” <i>See</i> p. 35.
Note: (i) The word “engatinhar” means “to crawl,” yet both Ms. Dodson and Mr. Goodland translate “Engatinha-Engatinha” with a reference to a cat; and (ii) they both attribute the nickname to Chief Mexô- Mexoitiqui when it is ambiguous in the Portuguese as to whose nickname is “Engatinha-Engatinha.”		
Original Portuguese: Logo adiante havia um rancho teatino .		
Goodland Translation	Dodson Translation	Engel Translation
A little farther on was an abandoned house. <i>See</i> p. 26.	Just up ahead was an abandoned shanty. <i>See</i> p. 27.	There was a Theatine shack just ahead. <i>See</i> p. 40.
Note: As noted in the Engel Translation, the Theatines were an order of priests who had missions in remote areas of Brazil. <i>See</i> the Engel Translation, at 40 n. 20. Both Mr. Goodland and Mr. Dodson ignore the adjective “teatino,” and simply describe the house as “abandoned.”		
Original Portuguese: Porém agora, cantava o lamento do uirapuru, nunca mais que Macunaíma havia de ser marupiara não, porque uma traça já engulira a muiiraquitã e o mariscador que apanhara a tartaruga tinha vendido a pedra verde pra um regatão peruano se chamando Venceslau Pietro Pietra.		
Goodland Translation	Dodson Translation	Engel Translation
For this reason, lamented the wren, Macunaíma was no longer the lucky fellow he had formerly been. A turtle	But now, went the uirapuru’s lament, Macunaíma would never be a lucky-duck ever again, cause a tracajá had	But then it sang the lament of the uirapuru, that Macunaíma would never have any luck because a tortoise had already

had swallowed the amulet, and a fisherman who had caught the turtle sold the greenstone to a Peruvian river trader called Venceslau Pietro Pietra. <i>See</i> 29.	swallowed the muiraquitã and the fisherman who'd caught the turtle had sold the magic green stone to a Peruvian riverboat peddler who went by the name of Venceslau Pietro Pietra. <i>See</i> 30.	swallowed the muiraquitã, and the clam digger who picked up the tortoise has sold the green stone to a Peruvian merchant named Venceslau Pietro Pietra. <i>See</i> 44.
Note: (i) Both Mr. Goodland and Mr. Dodson translate the word “regatão” as a merchant specific to rivers, which is its usage only in the area of the Amazon River; and (ii) they both translate the word “mariscador” as “fisherman,” when it is specifically a person who harvests mollusks.		
Original Portuguese: Nem bem Jiguê percebeu o milagre, se atirou na marca do pezão do Sumé.		
Goodland Translation	Dodson Translation	Engel Translation
As soon as Jiguê saw this miracle he sprang into St. Thomas' footprint. <i>See</i> p. 31.	No sooner did Jiguê witness the miracle than he threw himself into Sumé's humongous footprint. <i>See</i> p. 32.	Not quite understanding the miracle, Jiguê threw himself into Sumé's big footprint. <i>See</i> p. 49.
Note: Ms. Dodson and Mr. Goodland translate “nem bem,” which means “not quite” in Portuguese, as “no sooner” and “as soon as.”		
Original Portuguese: Brincou com elas na rede estranha platada no chão, numa maloca mais alta que a Paranaguara.		
Goodland Translation	Dodson Translation	Engel Translation
He made love with them in a strange kind of hammock spread out on the floor, in a hut taller than Paranagua Mountain . <i>See</i> p. 34.	He played around with em in a strange hammock planted in the ground, in a maloca taller than Paranaguara Peak . <i>See</i> p. 34-35.	He fooled around with them in a strange hammock planted in the floor, in a longhouse taller than the Paranaguá . <i>See</i> p. 52.
Note: As noted in the Engel Translation, the Palácio do Paranaguá is a large historic building that was famous at the time <i>Macunaíma</i> was published. <i>See</i> the Engel Translation, at 52 n. 13. Both Ms. Dodson and Mr. Goodland refer to it as a fictional mountain.		
Original Portuguese: E inda havia dispostos com arte enfeitadeira e muitos recortados de papel, os esplêndidos bombons Falchi e biscoitos do Rio Grande empilhados em cuias dum preto brilhante de cumaté com desenhos esculpidos a canivete, provindas de Monte Alegre.		
Goodland Translation	Dodson Translation	Engel Translation
There were yet more delicacies displayed with tasteful art on a multitude of paper doilies: splendid Falchi bonbons and Rio Grande cookies heaped in those lustrous black calabashes that	Adding the most charming decorative touch were those exquisite Falchi bonbons with colorful paper cutouts and cookies from Rio Grande piled high in shiny black bowls lacquered with cumaté	And there were handmade centerpieces with decorative paper cuttings, as well as splendid Falchi confections, cookies from the Rio Grande, and piles of gourds painted in the brilliant black of cumati-

come from Monte Alegre, and have designs carved on them with a penknife. <i>See</i> p. 44.	sap and engraved with a pocketknife, sourced from Monte Alegre. <i>See</i> p. 46.	tree dye and carved with designs in a style originating in Monte Alegre. <i>See</i> p. 69.
Note: As noted in the Engel Translation, Monte Alegre is the location of a famous archeological site where there is a cave filled with pre-Columbian paintings of animals and symbols. <i>See</i> the Engel Translation, at 69 n. 14. Ms. Dodson and Mr. Goodland refer to it as the location of the objects, rather than as the inspiration for the designs.		
Original Portuguese: Ia saindo quando topou com o jaguará do gigante, que chamava Xaréu, nome de peixe pra não ficar hidrófobo.		
Goodland Translation	Dodson Translation	Engel Translation
As he fled, the giant's dog , called Xaréu after a fish that cures rabies, picked up his scent. <i>See</i> p. 47.	While getting away he ran into the giant's mangy mutt Xaréu, named after a fish so he wouldn't catch hydrophobia. <i>See</i> p. 48.	As he was escaping, he encountered the giant's jaguar , which was named Xaréu, like the fish, so it wouldn't be hydrophobic. <i>See</i> p. 74.
Note: Ms. Dodson and Mr. Goodland refer to Xaréu as a dog, even though it is a jaguar ("jaguará") in the original version.		
Original Portuguese: Atravessando o Paraná já de volta dos pampas bem que ele queria trepar numa daquelas árvores porém os latidos estavam na cola dele e o herói isso vinha que vinha acochado pelo jaguara . Gritava: — Sai, pau !		
Goodland Translation	Dodson Translation	Engel Translation
He crossed the river Paraná and turned back from the pampas. He would have liked to climb a pine but the dog barked right behind him; he swerved away from chestnut trees and tonka beans and fiddlewoods, though easier to climb, and shouted at them, "Away with you, trees !" <i>See</i> p. 47.	Crossing Paraná already on his way back from the Pampas, he was itching to climb one of those trees but there came that yipping hot on his tail and gaining fast and the hero just couldn't shake that mangy mutt . He yelled: "Outta my way, tree !" <i>See</i> p. 49.	As he crossed Paraná, already well on his way back from the pampas, he wanted to climb one of the trees there. He heard snarling at his tail, however, and soon found himself being hounded by the jaguar . He screamed, "Leave me alone, you prick !" <i>See</i> p. 75.
Note: (i) Ms. Dodson and Mr. Goodland repeat their decision to refer to the jaguar as a dog, and (ii) they both translate "pau," which literally means "wood" but is commonly used a slang term for "penis," as "tree." The Portuguese word for "tree" is "árvore."		
Original Portuguese: — Peça no vizinho! ela fez apontando pra Sol que já vinha lá no longe remando pelo paraná guaçu . E foi-se embora.		
Goodland Translation	Dodson Translation	Engel Translation
"Pester the next one!" she said, pointing to the Sun, who	"Ask the neighbor!" she said pointing at the Sun who was	"Ask my neighbor!" she said, pointing at the Sun, who'd

had just begun to rise in the distance, paddling her canoe across the vast ocean ; and the Moon went away. <i>See</i> p. 61.	already approaching from a distance rowing across the vast sea . <i>See</i> p. 64.	already arrived in the distance and was rowing across the Paran Guaçu . Then, she went away. <i>See</i> p. 97.
Note: As noted in the Engel Translation, the word “guaçu” is a Tupi-language word for river, and the “paran guaçu” refers to the Paran River. <i>See</i> the Engel Translation, at 97 n. 9. Both Ms. Dodson and Mr. Goodland translate the phrase as a reference to the “vast” ocean.		
Original Portuguese: Era vasto o paran e no tinha uma nuvem na gupiara elevada do cu.		
Goodland Translation	Dodson Translation	Engel Translation
The ocean was vast in its expanse; there wasn’t a cloud in the lofty dome of the sky. <i>See</i> p. 62.	The sea was vast and there wasn’t a cloud in the glittering mineral sky. <i>See</i> p. 65.	The Paran was wide and there wasn’t a cloud in the diamond field in the sky. <i>See</i> p. 99.
Note: Mr. Goodland and Ms. Dodson repeat their decision to refer to the Paran River as an ocean.		
Original Portuguese: Outrossim, hemos adquirido muitos livros bilnges, chamados “burros”, e o dicionrio Pequeno Larousse .		
Goodland Translation	Dodson Translation	Engel Translation
In addition, we have obtained many bilingual books of the kind known as ponies or cribs, and the Petit Larousse dictionary. <i>See</i> p. 78.	Likewise have we acquired various bilingual books, known as “ ponies ,” as well as the Petit Larousse dictionary. <i>See</i> p. 83.	Moreover, We have acquired many bilingual books, called “ burros ,” as well as the Pequeno Larousse dictionary. <i>See</i> p. 123.
Note: (i) Both Ms. Dodson and Mr. Goodland translate the quoted word “burros,” which is a word in English, as “ponies”; and (ii) they both translate the “Pequeno Larousse” as the “Petit Larousse,” even though the “Pequeno Larousse” was an actual book and Mr. de Andrade left French-language terms in French throughout <i>Macunama</i> . <i>See</i> p. 123, at n. 21.		
Original Portuguese: — No tem inferno pra quem j navegou no Cachoeira!		
Goodland Translation	Dodson Translation	Engel Translation
“ Hell hath no terrors for one who has already been over the Falls!” <i>See</i> p. 97.	“ Hell hath no terror for he who has braved the Falls!” <i>See</i> p. 103.	“ There’s no fear of hell for those who’ve already rowed over the waterfall!” <i>See</i> p. 152.
Note: Ms. Dodson and Mr. Goodland both translate “no tem inferno,” which literally means “there is no hell,” as “Hell hath no terror.”		
Original Portuguese: Passando no Cear decifrou os letreiros indgenas do Aratanha; no Rio Grande do Norte costeando o serrote do Cabelo-no-tem decifrou outro.		
Goodland Translation	Dodson Translation	Engel Translation
Passing through Cear, he deciphered some petroglyphs at Aratanha; keeping along the treeless ridge in Rio	Passing through Cear, he deciphered the indigenous inscriptions at Aratanha; weaving his way along the	Passing through Cear, he deciphered the indigenous inscriptions of Aratanha; in Rio Grande do Norte,

Grande do Norte known as Old Baldy he deciphered another inscription. <i>See</i> p. 101.	coastal ridge known as Baldy Hill in Rio Grande do Norte he deciphered some more. <i>See</i> p. 106-07.	coasting along the ridgeline of Cabelo-não-Tem , he deciphered another. <i>See</i> p. 157.
Note: As noted in the Engel Translation, Cabelo-não-Tem is the name of an area of forests and streams in the state of Paraíba. <i>See</i> the Engel Translation, at 157 n. 22. Both Mr. Goodland and Ms. Dodson refer to it as a ridge “known as Baldy.”		
Original Portuguese: O brilhantão virou em quatro contos de carros de milho, adubo Polisu e uma fordeca de segunda mão.		
Goodland Translation	Dodson Translation	Engel Translation
The diamonds turned into four thousand cartloads of corn and chemical fertilizer and a secondhand Tin Lizzie . <i>See</i> p. 101.	The diamond turned into four contos’ worth of cartful after cartful of corn, some Polisu fertilizer and a secondhand Tin Lizzie . <i>See</i> p. 107.	The brilliant object turned into four carts full of corn, polysulphate fertilizer, and a second-hand Ford . <i>See</i> p. 159.
Note: Both Ms. Dodson and Mr. Goodland translate “fordeca” as “Tin Lizzie.”		
Original Portuguese: Enquanto o surucucu olhava pra aquilo tudo satisfeito, Macunaíma pro melado-caxito descansar, amontou num bagual cardão-rodado que nunca pode estar parado e galopeou através de varjões e varjotas.		
Goodland Translation	Dodson Translation	Engel Translation
While the bushmaster was gloating over this gift, Macunaíma, to rest the bay , mounted a stallion silver-roan that never stopped and was never blown, and galloped on over weald and wold. <i>See</i> p. 101.	As the surucucu surveyed it all with satisfaction, Macunaíma, to give the honey bay a rest, mounted a spirited silver pinto colt, the kind that’s always rarin’ to bolt, and went galloping over plains wide and narrow. <i>See</i> p. 107.	While the surucucu looked at everything with satisfaction, Macunaíma let the bronze-molasses horse rest, mounted a blue-specked horse that could never keep still, and rode at a gallop through floodplains and deltas. <i>See</i> p. 159.
Note: (i) Mr. Goodland and Ms. Dodson both refer to a horse as a “bay,” and (ii) they both translate “cardão-rodado” as “silver,” when it refers to the purplish-blue color of the cardo flower.		
Original Portuguese: Voaram sobre o chapadão mineiro de Urucuia, fizeram o circuito de Itapecerica e bateram pro Nordeste.		
Goodland Translation	Dodson Translation	Engel Translation
They flew over the tableland of Urucuia, pockmarked with mining adits; and turned to the northeast. <i>See</i> p. 102.	They flew over the Urucuia tablelands in Minas Gerais, did a lap around Itapecerica and made off for the Northeast. <i>See</i> p. 108.	They flew over the Urucuia Plateau in Mina Gerais, did a circuit around Itapecerica, and headed toward the northeast. <i>See</i> p. 160.
Note: Both Mr. Goodland and Ms. Dodson use the word “tableland” instead of the much more common “plateau.”		

Original Portuguese: Suzi sem quefazer passava o tempo contrariando a moralidade mas uma feita o santo Anchieta vindo ao mundo passou pela casa dela e por piedade ensinou-a a catar piolhos.		
Goodland Translation	Dodson Translation	Engel Translation
Suzi, left with nothing to do, spent her time railing against morality until St. Anchieta took pity on her and taught her to catch lice. <i>See</i> p. 116.	Suzi had nuthin' ta do and passed the time flouting morality but one time Saint Anchieta came passing through this world, went by her house and was moved by compassion to teach her how to pick nits. <i>See</i> p. 125.	Suzi, without anything to do, passed the time behaving immorally. One day, the holy Anchieta , who arrived in this world long ago, passed by her house and, out of pity, taught her how to catch lice. <i>See</i> p. 181.
Note: Both Mr. Goodland and Ms. Dodson refer to a “Saint Anchieta.” However, as noted in the Engel Translation, Father José de Anchieta was not canonized until 2014, and was not a saint at the time that <i>Macunaíma</i> was written. <i>See</i> the Engel Translation, at 109 n. 4. Even today, he is known as St. José de Anchieta, and not “St. Anchieta.”		
Original Portuguese: Comprou duas garrafas de licor de butiá catarinense uma dúzia de sanduíches dois abacaxis de Pernambuco e se amoitou no quartinho.		
Goodland Translation	Dodson Translation	Engel Translation
He bought two bottles of coconut liqueur from Santa Catharina , a dozen sandwiches and a couple of Pernambuco pineapples, and hid himself in his little room. <i>See</i> p. 117.	He bought two bottles of butiá palm wine from Santa Catarina a dozen sandwiches two pineapples from Pernambuco and holed up in his little room. <i>See</i> p. 126.	He bought two bottles of butiá liquor , a dozen sandwiches, two pineapples from Pernambuco, and hid himself in a little room. <i>See</i> p. 182-83.
Note: “Butiá catarinense” is the full name of a species of palm. Both Ms. Dodson and Mr. Goodland translate “catarinense” as “Santa Catarina” and identify it as the source of the alcohol.		
Original Portuguese: Decidiu: — Qua o quê!... Quando urubu está de caipora o de baixo caga no de cima, este mundo não tem jeito mais e vou pro céu.		
Goodland Translation	Dodson Translation	Engel Translation
He made up his mind: “What of it! When the vulture becomes the harbinger of woe , it shits on those above it from below! This world has nothing for me anymore; I shall go up to heaven!” <i>See</i> p. 162.	He made up his mind: “Nothing doing!... When the vulture’s down on his luck , the one at rock bottom craps on the top, this world’s lost its spark so I’m headed for the sky!” <i>See</i> p. 175.	After thinking some more, he concluded, “ When the vulture is on top of the caipora , and the bottom one is shitting on the top one, the world has lost its way. I’m going to the sky.” <i>See</i> p. 249.
Note: As noted in the Engel Translation, a “caipora” is a character from Tupi mythology who protects the forest and brings misfortune on others, much like the titular character of <i>Macunaíma</i> . <i>See</i> the Engel Translation, at 249 at n. 20. Ms. Dodson and Mr. Goodland both chose to ignore the word entirely, and instead describe only the vulture.		

43. Upon information and belief, striking similarities between the Goodland Translation and the Dodson Translation render the Dodson Translation ineligible for registration with the U.S. Copyright Office.

44. Upon information and belief, the Dodson Translation is uncopyrightable.

D. Fitzcarraldo Complains To Amazon.com That The Engel Translation Is Infringing On The Dodson Translation, And Amazon.com Suspends Sales Of The Engel Translation In The United Kingdom.

45. On November 2, 2023, I received a notice (the “Takedown Notice”) from Amazon.com, Inc. (“Amazon”), that Fitzcarraldo had claimed that the Engel Translation “may not be properly authorized by the appropriate rights holder.” *See* the Takedown Notice, a copy of which is attached as **Exhibit D**.

46. The Takedown Notice identified “the third party who claims [I] infringed its rights.” *See id.*

47. The third party was identified as “Joel Burton,” with an email address at joel@fitzcarraldoeditions.com. *See id.*

48. www.fitzcarraldoeditions.com is the address of Fitzcarraldo’s website.

49. As Fitzcarraldo is a publisher of the Dodson Translation, the implication of the Takedown Notice is that Fitzcarraldo has accused me of infringing on that work.

50. Amazon reported that, because of Fitzcarraldo’s infringement claim, it has suspended sales of the Engel Translation on Amazon.co.uk. *See id.*

51. Amazon also threatened to terminate my account with the company if the Engel Translation were found to have infringed on the Dodson Translation. *See id.*

52. As Amazon is effectively the only platform that allows authors to self-publish their work and to distribute it to a wide audience, Fitzcarraldo’s false claim of infringement could destroy my hobby entirely if it were to lead to the termination of my account.

E. Fitzcarraldo Refuses To Withdraw Their Infringement Claim, Even After Having Been Provided With My Certificate Of Registration.

53. In the Takedown Notice, Amazon informed me that it “will consider reinstatement if [I] provide valid documentation proving [I] have the rights to publish [the Engel Translation] or the claimant [*i.e.*, Fitzcarraldo] contacts us and confirms that [I] have the necessary rights to sell the disputed book on Amazon.co.uk.” *See id.*

54. On November 4, 2023, I responded to Amazon and Fitzcarraldo, providing them with a copy of my Certificate of Registration, and notifying them that there does not appear to be a registered copyright for the Dodson Translation in the Catalog Entries. *See* my response to Amazon and Mr. Burton, dated November 4, 2023, a copy of which is attached as **Exhibit E**.

55. As of the filing of this Complaint, Fitzcarraldo has not withdrawn its infringement claim, nor has Amazon reinstated sales of the Engel Translation on Amazon.co.uk.

56. Because Fitzcarraldo refuses to acknowledge that the Engel Translation does not infringe on the Dodson Translation, I am constrained to seek a declaration of non-infringement from the Court.

57. I also seek monetary damages for the lost sales of the Engel Translation during its suspension from Amazon.co.uk.

COUNT I
Declaratory Judgment of Non-Infringement
Under the U.S. Copyright Act, 17 U.S.C.A. § 501 *et seq.*

58. Plaintiffs incorporate the foregoing paragraphs by reference as though fully set forth at length herein.

59. I have a Certificate of Registration for my copyright in the Engel Translation. *See* Ex. A, the Certificate of Registration.

60. The Dodson Translation was published after the Engel Translation, and was not available to the public at any time before that.

61. Fitzcarraldo cannot explain how I am supposed to have copied a translation that was first published after I had already registered a copyright for the Engel Translation.

62. Fitzcarraldo has not identified what it believes to be striking similarities between the Engel Translation and the Dodson Translation that would suggest that I infringed on the work.

63. Further, there is no registered copyright for the Dodson Translation. *See* Ex. B, the Catalog Entries.

64. A registered copyright is a prerequisite for bringing a claim of infringement. *See* 17 U.S.C.A. § 411(a).

65. Not only is there presently no registered copyright for the Dodson Translation, it is unlikely that there ever will be, on account of the striking similarities between it and the Goodland Translation.

66. In other words, the Dodson Translation is uncopyrightable.

67. Even so, Fitzcarraldo insists that the Engel Translation infringes on Ms. Dodson's copyright, and has even caused sales of the Engel Translation to be suspended in the United Kingdom based on this claim.

68. Therefore, there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment under 28 U.S.C.A. § 2201(a).

WHEREFORE, Plaintiffs request that the Court (i) enter judgment in our favor; (ii) enter a declaration that the Engel Translation does not infringe on the Dodson Translation, and that Plaintiffs have not infringed on the intellectual-property rights of Fitzcarraldo in violation of the

U.S. Copyright Act, 17 U.S.C.A. § 501 *et seq.*; and (iii) award us any such other and further relief as the Court deems just and proper.

COUNT II
Improper Takedown In Violation Of The
Digital Millennium Copyright Act, 17 U.S.C. § 512(f)

69. Plaintiffs incorporate the foregoing paragraphs by reference as though fully set forth at length herein.

70. Under Section 512(f) of the Digital Millennium Copyright Act (the “DMCA”), any person who “knowingly materially misrepresents” that a work is infringing shall be liable to the accused infringer for any damages arising “as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing.” *See* 17 U.S.C. § 512(f).

71. Fitzcarraldo misrepresented to Amazon that the Engel Translation infringes on the Dodson Translation.

72. Fitzcarraldo knew that its misrepresentation was false, because the Catalog Entries show that there is a registered copyright for the Engel Translation and no registered copyright for the Dodson Translation. *See* Exhibit B, the Catalog Entries.

73. Fitzcarraldo also knew that the Engel Translation had been published and registered with the U.S. Copyright Office before the Dodson Translation was first published.

74. In reliance on Fitzcarraldo’s knowing misrepresentation regarding infringement, Amazon suspended sales of the Engel Translation in the United Kingdom.

75. Plaintiffs have been damaged by Fitzcarraldo’s knowing misrepresentation, as we have lost, and continue to lose, revenues during Amazon’s suspension of the Engel Translation in the United Kingdom.

WHEREFORE, Plaintiffs request that the Court enter judgment in our favor and award us damages in an amount in excess of \$5,000, plus costs of suit, and any such other and further relief in our favor as the Court deems just and proper.

COUNT III
Defamation

76. Plaintiffs incorporate the foregoing paragraphs by reference as though fully set forth at length herein.

77. Fitzcarraldo falsely represented to Amazon that the Engel Translation infringes on a copyright in the Dodson Translation.

78. Fitzcarraldo knew this representation was false because the Engel Translation was published before the Dodson Translation.

79. Fitzcarraldo also knew that this representation was false because there is no registered copyright for the Dodson Translation, and the Engel Translation is registered with the U.S. Copyright Office. *See* Ex. A, the Certificate of Registration; *see also* Ex. B, the Catalog Entries.

80. Fitzcarraldo made this representation to Amazon with the intention that Amazon would suspend sales of the Engel Translation.

81. Understanding Fitzcarraldo's representation to mean that Plaintiffs were infringing on Fitzcarraldo's intellectual-property rights, Amazon suspended sales of the Engel Translation in the United Kingdom.

82. Plaintiffs have been damaged by Fitzcarraldo's defamatory comments, as we have lost revenues during the time that the Engel Translation has been, and continues to be, suspended by Amazon in the United Kingdom.

WHEREFORE, Plaintiffs request that the Court enter judgment in our favor and award us damages in an amount in excess of \$5,000, plus costs of suit, and any such other and further relief in our favor as the Court deems just and proper.

COUNT IV
Tortious Interference with Contractual Relations

83. Plaintiffs incorporate the foregoing paragraphs by reference as though fully set forth at length herein.

84. Plaintiffs and Amazon have a contract which allows Plaintiffs to sell the Engel Translation on its websites, including Amazon.co.uk.

85. Fitzcarraldo knew that Plaintiffs and Amazon have a contractual relationship, as Fitzcarraldo knew that the Engel Translation was available for sale on Amazon's websites.

86. Fitzcarraldo falsely represented to Amazon that the Engel Translation infringed on its intellectual-property rights in the Dodson Translation.

87. Fitzcarraldo knew that this representation was false, because it knew from the Catalog Entries that I have a registered copyright in the Engel Translation and there is no registered copyright for the Dodson Translation. *See* Ex. B, the Catalog Entries.

88. Fitzcarraldo knew this representation was false also because the Engel Translation was published before the Dodson Translation.


89. Fitzcarraldo made this false claim of infringement with the intent that Amazon would remove the Engel Translation from its marketplace.

90. As a result of Fitzcarraldo's misrepresentation, Amazon suspended sales of the Engel Translation on Amazon.co.uk.

91. Plaintiffs have been damaged by Fitzcarraldo's interference with its contract with Amazon, as we have lost revenues during the time that the Engel Translation has been suspended from Amazon.co.uk.

WHEREFORE, Plaintiffs request that the Court enter judgment in our favor and award us damages in an amount in excess of \$5,000, plus costs of suit, and any such other and further relief in our favor as the Court deems just and proper.

Date: November 12, 2023

Respectfully submitted,

By: _____
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